

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUBLIC
PROVIDING FOR DIRECT PAYMENT OF SUBCONTRACTORS; AND RE
SUBCONTRACTORS INFORMED OF CHANGES THAT MIGHT AFFECT
SUBCONTRACTORS INCREASING THE INTEREST RATE ON LATE PAYMENTS BY A CONTRACTOR TO A
SUBCONTRACTOR FROM 1 1/2% TO 15%; AND AMENDING SECTION 28-2-2104."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION. Section 1. Payment of subcontractors by public agency -- information dissemination to subcontractors by contractor.~~ (1) Whenever a public agency, as defined in 18-1-101, receives a progress payment request or final payment request from a contractor, the public agency shall pay directly to a subcontractor any amount that the request shows is due the subcontractor.

~~(2) For construction contracts that involve public agencies, the contractor shall inform a subcontractor of any date changes, change orders, or other changes that may affect the project and the subcontractor.~~

~~NEW SECTION. Section 2. Payment of subcontractors by government entities -- information dissemination to subcontractors by contractor.~~ (1) Whenever a government entity receives a progress payment request or final payment request from a contractor, the government entity shall pay directly to a subcontractor any amount that the request shows is due the subcontractor.

~~(2) For construction contracts that involve government entities, the contractor shall inform a subcontractor of any date changes, change orders, or other changes that may affect the project and the subcontractor.~~

~~NEW SECTION. Section 3. Codification instruction.~~ (1) [Section 1] is intended to be codified as an integral part of Title 18, chapter 2, and the provisions of Title 18, chapter 2, apply to [section 1].

~~(2) [Section 2] is intended to be codified as an integral part of Title 28, chapter 2, part 21, and the provisions of Title 28, chapter 2, part 21, apply to [section 2].~~

SECTION 1. 28-2-2104. Obligations upon delay of payment. (1) If a periodic or final payment that is required by a construction contract to be paid by an owner to a contractor is delayed by more than 30 days from the date the payment is required by the contract to be made, the owner shall pay to the contractor interest, beginning on the day following the date when the payment is due, at the rate of 1 1/2% a month or a pro rata fraction of that amount on the unpaid balance. If the contractor receives interest from the owner for a delayed payment by the owner, the contractor shall ensure that any interest accrued on a delayed payment is distributed by the contractor to subcontractors on a pro rata basis.

(2) If a periodic or final payment required by a subcontract to be paid by a contractor to a subcontractor is delayed for more than 30 days from the date the payment is required by the subcontract to be made, the contractor shall pay to the subcontractor interest beginning on the day following the date when the payment is due, at the rate of 1-1/2% 15% a month or a pro rata fraction of that amount on the unpaid balance. If a subcontractor receives interest from the

5
A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PUBLIC CONSTRUCTION CONTRACT LAW; ~~PROVIDING FOR DIRECT PAYMENT OF SUBCONTRACTORS; AND REQUIRING CONTRACTORS TO KEEP SUBCONTRACTORS INFORMED OF CHANGES THAT MIGHT AFFECT THE PROJECT AND THE SUBCONTRACTORS~~ INCREASING THE INTEREST RATE ON LATE PAYMENTS BY A CONTRACTOR TO A SUBCONTRACTOR FROM 1 1/2% TO 15%; AND AMENDING SECTION 28-2-2104."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION. Section 1. Payment of subcontractors by public agency -- information dissemination to subcontractors by contractor.~~ (1) Whenever a public agency, as defined in 18-1-101, receives a progress payment request or final payment request from a contractor, the public agency shall pay directly to a subcontractor any amount that the request shows is due the subcontractor.

~~(2) For construction contracts that involve public agencies, the contractor shall inform a subcontractor of any date changes, change orders, or other changes that may affect the project and the subcontractor.~~

~~NEW SECTION. Section 2. Payment of subcontractors by government entities -- information dissemination to subcontractors by contractor.~~ (1) Whenever a government entity receives a progress payment request or final payment request from a contractor, the government entity shall pay directly to a subcontractor any amount that the request shows is due the subcontractor.

~~(2) For construction contracts that involve government entities, the contractor shall inform a subcontractor of any date changes, change orders, or other changes that may affect the project and the subcontractor.~~

~~NEW SECTION. Section 3. Codification instruction.~~ (1) [Section 1] is intended to be codified as an integral part of Title 18, chapter 2, and the provisions of Title 18, chapter 2, apply to [section 1].

~~(2) [Section 2] is intended to be codified as an integral part of Title 28, chapter 2, part 21, and the provisions of Title 28, chapter 2, part 21, apply to [section 2].~~

SECTION 1. 28-2-2104. **Obligations upon delay of payment.** (1) If a periodic or final payment that is required by a construction contract to be paid by an owner to a contractor is delayed by more than 30 days from the date the payment is required by the contract to be made, the owner shall pay to the contractor interest, beginning on the day following the date when the payment is due, at the rate of 1 1/2% a month or a pro rata fraction of that amount on the unpaid balance. If the contractor receives interest from the owner for a delayed payment by the owner, the contractor shall ensure that any interest accrued on a delayed payment is distributed by the contractor to subcontractors on a pro rata basis.

(2) If a periodic or final payment required by a subcontract to be paid by a contractor to a subcontractor is delayed for more than 30 days from the date the payment is required by the subcontract to be made, the contractor shall pay to the subcontractor interest beginning on the day following the date when the payment is due, at the rate of ~~1 1/2%~~ 15% a month or a pro rata fraction of that amount on the unpaid balance. If a subcontractor receives interest from the